CONFIDENTIAL

Departmental Enquiries :
Authorities competent to order—

GOVERNMENT OF MAHARASHTRA.

GENERAL ADMINISTRATION DEPARTMENT.

Circular No. CDR-1159-D.

Sachivalaya, Bombay, 1st July 1960. / Asadha 10, 1882.

CIRCULAR OF GOVERNMENT.

It is noticed that in some cases orders sanctioning departmental enquiries are issued by authorities subordinate to those who are competent to impose on the Government servants concerned penalties which are ultimately imposed on them as a result of those enquiries. Such cases are of two types, viz :

(i) where the departmental enquiries are sanctioned by authorities who have no powers to take disciplinary action against the persons concerned ;

and

(ii) where they are sanctioned by authorities who have powers to impose certain specified penalties (i.e. minor penalties) on the persons concerned, but have no such powers to impose other penalties which may ultimately be imposed as a result of the departmental enquiries sanctioned by them.

Government has considered whether such a procedure would be in order and is pleased to clarify as follows :—

(*a*) Departmental enquiries of the former type [viz. those indicated under (i) above] are *ab-initio* invalid since they are sanctioned by authorities without jurisdiction, and any action taken in pursuance of such enquiries would be vitiated and therefore illegal ; and

(*b*) Departmental enquiries of the latter type [viz. those indicated under (ii) above] would be in order since in these cases the authorities concerned had powers to initiate departmental action against the persons in question, provided that on the completion of the departmental enquiries and when they come to the tentative conclusion that a penalty other than those which are within their powers should be imposed, the authorities sanctioning the departmental enquiries forward the relevant papers to their superior authorities who have the necessary powers to impose the appropriate penalties and the latter take the further necessary action viz. for issuing the show-cause notices and imposing the penalties.

2. All the Departments and officers are requested to note the correct position and to ensure that the correct procedure is followed by them scrupulously.

By order and in the name of the Governor of Maharashtra,

K. P. NADKARNI,
Under Secretary to the Government of Maharashtra,
General Administration Department.

[*P. T. O.*

To

The Secretary to the Governor,
The Private Secretary to the Chief Minister,
The Prothonotary and Senior Master, High Court, Bombay (By letter),
The Registrar, High Court, Appellate Side, Bombay (By letter),
The Secretary, Maharashtra Public Service Commission,
The Accountant General, Bombay,
All other Heads of Departments and Heads of Offices under the several Departments of the Secretariat,
All Departments of the Secretariat.

No. of 1960

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